

**Internal Revenue Service**

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:  
CC:INTL:PLR:109878-99  
Date:  
September 14, 1999

LEGEND

- Taxpayer =
- Deferral Years =
- Individual A =

Dear :

This replies to a letter dated May 17, 1999, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to elect the provisions of Revenue Procedure 89-45, 1989-2 C.B. 596 for the Deferral Years. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

Prior to becoming a U.S. resident, Taxpayer established and contributed to Canadian Registered Retirement Savings Plans ("RRSPs"). No contributions have been made to these plans since Taxpayer became a U.S. resident. In addition, no distributions have been made by these plans. All U.S. tax returns have been timely filed, but without an election under Rev. Proc. 89-45 to defer U.S. income tax on current earnings of the RRSPs.

Taxpayer became aware of Rev. Proc. 89-45 while reading a newspaper article dealing with its filing requirements. After several unsuccessful attempts to engage the services of a tax professional knowledgeable about Rev. Proc. 89-45, Taxpayer finally engaged

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the services of Individual A, an attorney and certified public accountant. Individual A informed Taxpayer of the need to file the election and how to proceed with a request to extend the time for filing the elections for prior years. Taxpayer's failure to make the election under Rev. Proc. 89-45 was not discovered by the IRS prior to this request for a ruling.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the standards set forth in § 301.9100-3 to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100 -1(b) defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-3 provides standards for extensions of time for making regulatory elections when the deadline for making the election is other than a due date prescribed by statute.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, Rev. Proc. 89-45 provides the procedures that a beneficiary of a RRSP must follow to elect to defer U.S. tax on earnings accrued in the plan during the taxable year. Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to elect the provisions of Rev. Proc. 89-45 for the Deferral Years.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

A copy of this ruling letter should be associated with the Deferral Years.

This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent.

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Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

/s/ Allen Goldstein

Allen Goldstein

Reviewer

Office of the Associate Chief Counsel (International)